

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

DEVITTA BRISCOE, individually, and as executor of the Estate of Che Andre Taylor; JOYCE DORSEY, individually; CHE ANDRE TAYLOR, JR., individually; and SARAH SETTLES on behalf of her minor child, CHELYNN MARIE TAYLOR, and DEMEKA GREEN for the Estate of Brenda Taylor,

**Plaintiffs,**

CITY OF SEATTLE; MICHAEL SPAULDING and "JANE DOE" SPAULDING, and their marital community composed thereof; SCOTT MILLER and "JANE DOE" MILLER, and their marital community composed thereof; TIMOTHY BARNES and "JANE DOE" BARNES, and their marital community composed thereof; and AUDI ACUESTA and "JANE DOE" ACUESTA, and their marital community composed thereof.

## Defendants.

## I. NATURE OF ACTION

1.1     Introduction. This is a civil rights action brought by plaintiffs for excessive force. This case arises from claims of assault, excessive force, false arrest, unlawful seizure,

## THIRD AMENDED COMPLAINT FOR DAMAGES

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1 tort of outrage, negligence and violation of RCW 49.60.

2 Plaintiff pursuant to 42 USC §1983 and the Fourth and Fourteenth Amendment.

3 Fourteenth Amendments against the Defendants and their marital community

4 **II. PARTIES**

5 2.1 Plaintiff, Devitta Briscoe, is the executor of the Estate of Che Andre Taylor  
6 and at all times relevant was Che Andre Taylor's sister, a resident of King Count, Washington.

7 2.2. Plaintiff, Demeka Green, the executor of the Estate of Brenda Taylor. At all  
8 times relevant and was the daughter of Brenda Taylor, a resident of King County,  
9 Washington.

10 2.3 Plaintiff Joyce Dorsey is the mother Che Andre Taylor and currently resides in  
11 the State of Texas

12 2.4 Plaintiff Che Andre Taylor, Jr. is the son of Che Andre Taylor and currently  
13 resides in the State of Texas.

14 2.5 Plaintiff Sarah Settles is the mother of Che'Lynn Marie Taylor, minor.  
15 Che'Lynn Marie Taylor is the daughter of Che Andre Taylor. Sarah Settles and Che'Lynn  
16 Marie Taylor reside in King County, Washington.

17 2.6 Defendant City of Seattle. Defendant City of Seattle (City) is a municipality  
18 within the State of Washington and employed the police officers that responded to the  
19 February 21, 2016 incident involving Che Andre Taylor. The civil rights violations  
20 delineated herein were proximately caused by its customs, policies and usages. Here, the City  
21 is liable for intentional torts or negligence under goes further than the theory of *respondent*  
22 *superior* if the employee was acting in the scope and course of employment. The City of  
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THIRD AMENDED COMPLAINT FOR DAMAGES

1 Seattle's customs and officers giving conflicting commands, decedent attempting to comply  
 2 with the conflicting commands by putting his hands up in the air and then attempting to drop  
 3 them to the ground, officers shooting decedent thereafter within seconds after approaching  
 4 decedent meets the Monell claims as policy or custom of giving conflicting commands and  
 5 shooting and killing an individual within seconds is deficient, it caused great harm to the  
 6 Plaintiffs, and it could be viewed that the policy/custom amounted to deliberate indifference.  
 7 Whether the City had proper training, procedure, and policies in place for its officers on how  
 8 to handle similar situations prior to resorting to shooting and killing citizens, as Che Andre  
 9 Taylor, will be proven after discovery is concluded and at trial.

10       2.7     Defendant Michael Spaulding. At all times relevant, Michael Spaulding was  
 11 employed as law enforcement by the Seattle Police Department and was acting within the  
 12 course and scope of his employment with the City of Seattle and under color of law. All of  
 13 Michael Spaulding's acts alleged herein was taken for the benefit for the City of Seattle and  
 14 his marital community.

15       2.8     Defendant Scott Miller. At all times relevant, Scott Miller was employed as  
 16 law enforcement by the Seattle Police Department and was acting within the course and scope  
 17 of his employment with the City of Seattle and under color of law. All of Scott Miller's acts  
 18 alleged herein was taken for the benefit for the City of Seattle and his marital community.

19       2.9     Defendant Timothy Barnes. At all times relevant, Timothy Barnes was  
 20 employed as law enforcement by the Seattle Police Department and was acting within the  
 21 course and scope of his employment with the City of Seattle and under color of law. All of  
 22 Timothy Barnes' acts alleged herein was taken for the benefit for the City of Seattle and his  
 23

1           marital community.

2         2.10    Defendant Audi Acuesta. At all times relevant, Audi Acuesta was employed  
3           as law enforcement by the Seattle Police Department and was acting within the course and  
4           scope of his employment with the City of Seattle and under color of law. All of Audi  
5           Acuesta's acts alleged herein was taken for the benefit for the City of Seattle and his marital  
6           community.  
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8         2.11    Unknown Seattle Police Officer. At all times relevant, the unknown police  
9           officers were employed as law enforcement by the Seattle Police Department and was acting  
10          within the course and scope of his employment with the City of Seattle and under color of  
11          law.  
12

### III. JURISDICTION AND VENUE

13         3.1    Jurisdiction. Jurisdiction in this Court is based on the existence of a federal  
14           question pursuant to 28 USC §1331 and 1333, in that Plaintiffs assert claims for deprivation  
15           of civil rights under 42 USC §1983 for violation of the Fourth Amendments to the United  
16           States Constitution.  
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18         3.2    Venue. Venue for this action is appropriate in this Court because the events  
19           giving rise to the claims asserted herein occurred in the Seattle Division of this district and  
20           because the plaintiffs and defendants reside in this district.  
21

### IV. FACTS

22         4.1    On February 21, 2016 at approximately 4:15 pm, Che Andre Taylor was shot  
23           by multiple Seattle Police Officers. Che Andre Taylor was an African American male.  
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25         4.2    Che Andre Taylor died as a result of the multiple gunshot wounds that he  
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1 received from the February 21, 2016 shooting.

2       4.3 Prior to the shooting, Che Andre Taylor was standing in the doorframe of a  
3 white motor vehicle talking to people inside the vehicle.

4       4.4 Officers Michael Spaulding and Scott Miller were observing Che Andre Taylor  
5 in an undercover capacity prior to the shooting. Officers Spaulding and Miller were watching  
6 Che Andre Taylor from an undercover vehicle.

7       4.5 Based upon their perceived observations, Officers Spaulding and Miller chose  
8 to approach and attempt to arrest Che Andre Taylor.

9       4.6 Officers Spaulding and Miller chose to approach Che Andre Taylor with long  
10 rifles because of the stopping power of these particular firearms.

11       4.7 Officers Spaulding and Miller were wearing black tactical jackets at the time  
12 that they chose to approach and attempt to arrest Che Andre Taylor.

13       4.8 At the time that Officers Spaulding and Miller began to approach Che Andre  
14 Taylor, a marked Seattle Police vehicle began to approach the scene.

15       4.9 Officers Barnes and Acuesta were in the marked Seattle Police vehicle that  
16 was approaching the scene.

17       4.10 The marked Seattle Police vehicle that Officers Barnes and Acuesta were  
18 present at the time, date, and location of the incident.

19       4.11 In the video, Officers Spaulding and Miller can be seen quickly approaching  
20 the vehicle that Che Andre Taylor was standing in with their guns drawn.

21       4.12 In the audio recording, multiple police officers can be heard simultaneously  
22 giving Che Andre Taylor, including Officer Barnes, Acuesta, Spaulding and Miller. The

1 commands given to Che Andre Taylor were not consistent.

2       4.13 Some of these police officers can be heard yelling at Che Andre Taylor to put  
 3 his hands up while other police officers can be heard yelling at Che Andre Taylor to get on  
 4 the ground, the commands given by the officers -Offices Spaulding, Miller, Barnes and  
 5 Acuesta- were inconsistent and incompatible commands that conflicted with the other  
 6 commands given by the other officers present, which created a chaotic and disorganized  
 7 environment for the Che Andre Taylor by these officers. These officers were shouting and  
 8 ordering the decedent conflicting orders which was confusing the decedent. The officers'  
 9 voices were captured in the audio and video of the incident as these officers' were present and  
 10 involved in creating this disorganized and dangerous situation. The officers, as trained police  
 11 officers by the City of Seattle, have a duty that they owe to all citizens, including Che Andre  
 12 Taylor not to create a chaotic scene in which conflicting orders are given, confusing the  
 13 decedent, and eventually leading to him being shot multiple times and dying. All officers  
 14 own a duty to civilians, including Che Andre Taylor to serve and protect them and to give  
 15 orderly commands that can and should be followed, not commands that would endanger  
 16 the public in general. When the officers gave their instructions and gave verbal commands to  
 17 the decedent, which were conflicting and confusing orders, they breached their duty to him  
 18 and thereby created a dangerous situation that led to Che Andre Taylor being shot and killed.  
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20       4.14 The police officer commands to Che Andre Taylor were being yelled at Che  
 21 Andre Taylor from different directions with multiple differing commands. Plaintiffs believe it  
 22 was the City of Seattle's custom and practice that trained and reinforced the officers- Officer  
 23 Spaulding, Miller, Barnes, and Acuesta – to give conflicting and contrary commands to a  
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1 Che Andre Taylor, which led to him being shot multiple times and ultimately dying.

2       4.15 Che Andre Taylor can be seen on the video attempting to comply with the  
3 simultaneous and conflicting and opposing commands of the police officers.

4       4.16 Che Andre Taylor first puts his hands in the air and then attempts to drop to the  
5 ground as instructed by the police officers.

6       4.17 Che Andre Taylor was shot by Officers Spaulding and Miller within seconds  
7 of their approach of Che Andre Taylor.

8       4.18 After shooting Che Andre Taylor, police officers rolled his body over and  
9 handcuffed him.

10       4.19 Critical minutes lapsed between the time in which Che Andre Taylor was shot  
11 and the time that police officers allowed medical emergency personnel to render aid.

12       4.20 Shortly after Che Andre Taylor was shot, Seattle Police Officers began to turn  
13 their attention to the other individuals in the vehicle that Che Andre Taylor had been standing  
14 by.

15       4.21 Seattle Police Officers commanded the remaining individuals in the car to get  
16 out of it.

17       4.22 The passenger in the back seat of the vehicle that Che Andre Taylor was  
18 standing by and had difficulty following the command given by the police officers. The  
19 passenger in the back seat was a white female. First, the police officer instructed her to exit  
20 the vehicle out of the back door that is on the driver side. Rather than going to the driver side  
21 back door, she lunged toward the passenger side door. The backseat passenger also failed to  
22 comply with the officer commands when she initially got out of the vehicle. Police officers  
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did not shoot her.

4.23 The driver of the white vehicle was a white male. Police officers paid little to no attention to his actions or movements at the time that they approached Che Andre Taylor.

4.24 Che Andre Taylor was ultimately shot and killed while attempting to comply with conflicting police officers' commands.

4.25 Che Andre Taylor was denied the ability to comply with the police officers' commands as they were inconsistent to him.

4.26 As a result of the actions of the police officers in this incident, Che Andre Taylor was denied due process of law.

## **V. CAUSES OF ACTION**

5.1     First Cause of Action. By virtue of the facts set forth above, the defendants are liable to all plaintiffs for damages for negligence. The claim for negligence arises out of the duty owed to decedent Che Taylor by the city and by extension the police officers who shot and killed him. The duty is breached when the officers chose to shoot and killed Che Taylor, and but for the negligence or action of the officers and their employee the city, Che Taylor would have been still alive. Thus, the elements of negligence are met. Specifically and further, in Washington, the public duty doctrine defines under which a governmental entity may owes a statutory or common law duty to particular member of the public, namely,

(i) legislative intent, (ii) failure to enforce, (iii) the rescue doctrine, or (iv) a special relationship.

1           5.2     Second Cause of Action. By virtue of the facts set forth above, the defendants  
 2 are liable to all plaintiffs for the tort of outrage. Devitta Briscoe as the sister and executor of  
 3 the estate of Che Andre Tylor claims outrage based the fact that Defendants officers Spalding  
 4 and Miller shot decedent multiple times, he suffered before he died and several officers  
 5 shouting inconsistent, confusing and conflicting orders before he was eventually killed.  
 6  
 7 Defendants actions were not only reckless, but intentional, as they gave opposing commands  
 8 that Che Andre Taylor could not comply with and then fired shots at him, knowing they could  
 9 kill him thereby causing emotional distress to Che Andre Taylor. The decedent had suffered  
 10 injury and pain before he died as a result of bullets raining on him from many officers prior to  
 11 eventually pronounced dead.

12           5.3     Third Cause of Action. By virtue of the facts set forth above, the defendants  
 13 are liable to all plaintiffs for false arrest.  
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15           5.4     Fourth Cause of Action. By virtue of the facts set forth above, the defendants  
 16 are liable to all plaintiffs for unlawful seizure.  
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18           5.5     Sixth Cause of Action. Per RCW 49.60.030, the defendants are liable to the  
 19 plaintiffs for violation of the plaintiffs' civil rights to the right to be free from discrimination  
 20 because of race, creed, color, national origin, sex, honorably discharged veteran or military  
 21 status, sexual orientation, or the presence of any sensory, mental, or physical disability or the  
 22 use of a trained dog guide or service animal by a person with a disability is recognized as and  
 23 declared to be a civil rights.  
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25           5.6     42.USC §1983. By virtue of the facts set forth above, all defendants are liable  
 26 for compensatory and punitive damages for deprivation of civil rights of plaintiff Brenda

1 Taylor, which then passes to her estate, guaranteed by the Fourteenth Amendments of the  
2 constitution of the United States and 42 USC §1983 to be free from their liberty interest in a  
3 familial relationship with her husband, Che Andre Taylor, without due process of law.

4       5.7     42.USC §1983. By virtue of the facts set forth above, all defendants are liable  
5 for compensatory and punitive damages for deprivation of civil rights of Che Andre Taylor's  
6 children, guaranteed by the Fourteenth Amendments of the constitution of the United States  
7 and 42 USC §1983 to be free from their liberty interest in a familial relationship with their  
8 father, Che Andre Taylor, without due process of law.

9       5.8     42.USC §1983.       By virtue of the facts set forth above, all defendants are  
10 liable for compensatory and punitive damages for deprivation of civil rights of plaintiff Joyce  
11 Dorsey, guaranteed by the Fourteenth Amendments of the constitution of the United States  
12 and 42 USC §1983 to be free from their liberty interest in a familial relationship with her son,  
13 Che Andre Taylor, without due process of law.

14       5.9     42.USC §1983.       By virtue of the facts set forth above, all defendants are  
15 liable for compensatory and punitive damages for deprivation of civil rights of plaintiff Estate  
16 of Che Andre Taylor, guaranteed by the Fourteenth Amendments of the constitution of the  
17 United States and 42 USC §1983 to be free from their liberty interest in a familial relationship  
18 with their family member, Che Andre Taylor, without due process of law.

1 WHEREFORE, Plaintiffs pray for the following relief:

2 1. Compensatory damages and punitive damages in an amount to be proven at  
3 trial. Plaintiffs seek punitive damages against all defendants;

4 2. For reasonable attorneys' fees and costs; and  
5 3. For such other and further relief as the Court deems just and equitable.

6 Dated this 27<sup>th</sup> day of October, 2019.  
7

8 JAMES BIBLE LAW GROUP

9 /s / James Bible  
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11 Attorney for Plaintiffs

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20 THIRD AMENDED COMPLAINT FOR DAMAGES